



W.P(MD)No.21246 of 2021, etc., batch

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **01.07.2022**

CORAM

THE HONOURABLE MR. JUSTICE B.PUGALENDHI

W.P.(MD)Nos.21246, 21500, 21539, 21560, 21632, 21725 to 21732,
21837 to 21847, 21855 to 21871, 21956 to 21961, 22020, 22023 to
22025, 22043 to 22045, 22049, 22278 to 22280, 22473, 22668 of 2021
& 1591, 2318, 2482, 34 of 2022

and

W.M.P.(MD)Nos.18064, 18066, 18095, 18119, 18205, 18207, 18212,
18300 to 18308, 18424 to 18434, 18444 to 18473, 18475 to 18478,
18531, 18532, 18534, 18535, 18537, 18539 to 18546, 18550 to 18552,
18620 to 18622, 18626 to 18628, 18652 to 18654, 18657, 18658, 18826,
18830 to 18833, 18836, 19013, 19014 of 2021 & 19, 22, 1385, 1386, 2033,
2035, 2187, 2188 of 2022

WP(MD)No.21246 of 2021:-

A.Vasanth

... Petitioner

Vs.

1.The Principal Secretary to Government,
Adi Dravidar and Scheduled Tribe Welfare Department,
Secretariat, Chennai.

2.The Director,
Adi Dravidar and Scheduled Tribe Welfare Department,
Beach Road, Chennai.

3.The Welfare Officer,
Adi Dravidar and Scheduled Tribe Welfare Department,
Trichy, Trichy District.

... Respondents



W.P(MD)No.21246 of 2021, etc., batch

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the respondents to give appointment to the petitioner as Cook in the Hostel and Schools that are having food and accommodation facility under Adi Dravidar and Scheduled Tribe Welfare Department on the basis of petitioner's qualification and participation in the interview conducted by Adi Dravidar and Scheduled Tribe Welfare Department, Trichy, on 28.12.2020 and in the light of the petitioner's representation dated 20.04.2021.

For Petitioner : Mr.S.V.Durai Solaimalai

For Respondents : Mr.Veera Kathiravan,
Additional Advocate General

Assisted by
Mr.J.Ashok,
Additional Government Pleader

COMMON ORDER

These batch of writ petitions pertain to the selection and appointment of Cooks in the Hostels run by the Backward Classes, Most Backward Classes and Minorities Welfare Department (hereinafter referred to as 'Hostels'). The Government, vide G.O.Ms.No.25, Backward Classes, Most Backward Classes and Minorities Welfare Department, dated 14.02.2020, has reconstituted the State Level Selection Committee in respect of Backward Classes, Most Backward Classes and Minorities Welfare Department as follows:-



- Director of Backward Classes, Most Backward Classes and Minorities

Welfare Department, Chennai or his nominee – Chairman;

- Deputy Director of Backward Classes, Most Backward Classes and Minorities Welfare Department, Chennai or his nominee – Member;

- Concerned District Backward Classes, Most Backward Classes and Minorities Welfare Officer or Joint Director (Kallar Reclamation) – Member.

2.After the reconstitution of the Selection Committee, the Director, Backward Classes, Most Backward Classes and Minorities Welfare Department, vide letter dated 28.08.2020 in Lr.No.B4/2874/2020, issued instructions to fill up 954 vacant posts of Cooks in the Hostels, through Direct Recruitment, on getting approval of the Staff Committee. Accordingly, notifications were published in respect of 29 districts by the respective District Collectors and interviews were also conducted by the State Level Selection Committee.

3.Out of 29 districts, selection intimations followed by appointment orders were issued for 164 successful candidates in respect of 9 districts, viz., Chennai, Vellore, Perambalur, Ariyalur, Villupuram, Thiruvavur, Nilgiris, Nagapattinam and Tenkasi. These candidates were also permitted to join duty during the year 2020-21 itself, considering the urgent necessity of Cooks in the



Hostels in the 9 districts. Apart from these 164 candidates, selection intimations were issued for 140 successful candidates in respect of 4 districts, viz., Dindigul, Ramanathapuram, Tuticorin and Tirupathur, however, no appointment orders were issued to them. Apart from these 13 districts (9 + 4), selection results are yet to be published in respect of the remaining 16 districts.

4. In the meantime, the Director / Chairman of the State Level Selection Committee has cancelled the entire selection process to the post of Cooks in the Hostels vide proceedings dated 27.11.2021, in No.B4/6988/2018. Aggrieved over such cancellation, the candidates have filed these writ petitions primarily challenging this proceedings dated 27.11.2021.

5. Three sets of petitioners are before this Court. For the first group, selection intimations followed by appointment orders were issued and therefore, they sought for a direction permitting them to continue to work as Cooks. For the second group, selection intimations alone were issued and therefore, they sought for a direction to issue appointment orders and thereafter, to allow them to work as Cooks. With regard to the third group, selection list is yet to be published and therefore, they sought for a direction to publish the selection list pursuant to the interview and thereafter, to issue necessary appointment orders.



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6. Since all these writ petitions primarily concern with the selection and appointment of Cook in the Hostels run by the Department and the subsequent cancellation of the entire selection process vide the proceedings of the Director / Chairman of the State Level Selection Committee, dated 27.11.2021, these writ petitions are disposed of by way of this common order, though they were reserved on different dates.

7. Sum and substance, the arguments advanced on the side of the petitioners are as follows:-

7.1. The entire selection process was conducted in accordance with law by the Selection Committee constituted as per G.O.Ms.No.25, Backward Classes, Most Backward Classes and Minorities Welfare Department, dated 14.02.2020. The Chairman of the Selection Committee has issued appointment orders dated 24.02.2021 in respect of certain selected candidates and the rest of the selected candidates are expecting their appointment orders soon. While so, without any reason, the entire selection process has been cancelled.

7.2. The selection process was made on district basis and the recruitment was made independently. In some of the districts, the candidates have joined duty and are also working. The selection has been made by following the regular recruitment procedure and also the communal roster, after public



notification. While so, their selections have been arbitrarily cancelled without assigning any reasons.

7.3.The entire selection process was initiated and concluded by the previous regime of the State Government and in view of the change in Government, all the appointments have been cancelled abruptly, without assigning any valid reason for the same.

8.Learned Additional Advocate General appearing for the Government, on the other hand, submitted that the selections were made on temporary basis, depending upon the necessity. Though the interview was conducted in 29 districts by the State Level Selection Committee, the selection intimations were issued in respect of 13 districts alone. Of these 13 districts, appointment orders were issued only in respect of 9 districts, to meet out the urgent necessities. After the selection, the District Officers received complaints from the Students of the Hostels that the meals cooked by the newly appointed Cooks are not proper and the same is not eatable. Therefore, the Department has conducted an enquiry and found that most of the Cooks lacked practical experience in cooking. Therefore, the respective District Officers were directed to check the practical experience in cooking for the selected candidates through the Institute of Hotel Management and Catering Technology and after such verification alone, the selection process was cancelled.



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9.Learned Additional Advocate General further submitted that one Anitha and 29 others, who are working as Sweepers on consolidated pay in Backward Classes, Most Backward Classes and Minorities Welfare Department, have filed a writ petition in WP.No.14079 of 2020 before the Principal Seat of this Court, challenging the notification issued calling for applications to the post of Cooks in the Hostels run by the Department, on Direct Recruitment. They prayed for appointing them as Cooks in the posts. In that writ petition, this Court has passed an order of *status-quo* on 05.11.2020. In the meantime, interview was conducted and appointment orders were issued to some of the selected candidates and therefore, the petitioners in WP.No.14079 of 2020 have filed Contempt Petition before this Court in Cont.P.No.266 of 2021 for the wilful disobedience of the orders of *status-quo* dated 05.11.2020.

10.Learned Additional Advocate General further submitted that in order to avoid the contempt proceedings and since several complaints were received complaining about the food prepared by the newly appointed Cooks and on verification, it was found that the selected candidates lack practical experience in cooking, the Department has taken a decision to cancel the entire selection process.



11. In reply, it is argued by the petitioners' Counsel that mere receipt of complaints by itself cannot be a reason to cancel the entire selection process, without verifying the genuineness of those complaints. The respondents are not correct in taking a uniform stand that all the selected candidates do not have adequate practical experience, without verifying the working quality of the individual candidates. The writ petition filed by the Sweepers and the interim order granted therein cannot be a reason for cancelling the entire selection process. The cancellation of selection process should be just and reasonable and there cannot be any arbitrary rejection of the candidature, without there being any reasonable reason. Reliance was also placed upon the decision of the Hon'ble Supreme Court in the case of *East Coast Railway and another v. Mahadev Appa Rao and Others*, reported in (2010) 7 SCC 678, in this regard.

12. This Court has considered the rival submissions made on either side and perused the available materials.

13. The Backward Classes, Most Backward Classes and Minorities Welfare Department is maintaining 1354 Hostels for the purpose of providing Education and for the welfare of Backward Classes, Most Backward Classes and Minority Students. There are 954 vacancies for the post of Cooks in these Hostels. The Director of Backward Classes, Most Backward Classes and

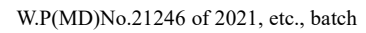


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Minorities Welfare Department, in order to fill up those vacancies after getting approval of the Staff Committee, has issued directions to the respective District Collectors to fill up those vacancies through the State Level Selection Committee constituted by the Government.

14. Accordingly, the respective District Collectors of the 29 districts have invited applications from the eligible candidates for appointment to the post of Cooks. Pursuant to the notifications issued, the petitioners have applied for the post of Cooks in the Hostels. They were issued with interview letters and accordingly, the petitioners participated in the interview between 24.11.2020 and 28.11.2020. The State Level Selection Committee conducted the interview and selected candidates. In respect of 9 districts, selection intimations followed by appointment orders were issued; in respect of 4 districts, selection intimations alone were issued and in respect of the rest of the districts, the results are yet to be published.

15. While such being the position, the Chairman of the Selection Committee, nearly after nine months, vide proceedings dated 27.11.2021 has cancelled the entire selection process. Learned Additional Advocate General has taken a specific stand that after verifying the capacity of the candidates, the selection process was cancelled. On the other hand, learned Counsel for the



16.No doubt, the selection was made by the Government prior to the Assembly Election and the cancellation was made after the change in Government. However, this Court is not inclined to dwell into this allegation any further, inasmuch it lacks material evidence and that though the Government changes, the authorities / Government Officers remain the same, who are passing the orders.

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18.No doubt, the welfare of the students is paramount and the complaints received from them have to be looked into. The main ingredient of the complaint is that the food prepared by the newly appointed Cooks is not eatable and according to the respondents, some of the selected candidates do not have adequate experience in Cooking. If that is the case, this Court fails to understand the criteria adopted and as to how without even ascertaining the basic qualifications required for a Cook, the candidates have been selected in the interview conducted by the State Level Selection Committee between 24.11.2020 and 28.11.2020. Therefore, the very conduct of interview by the Selection Committee is at stake here.

19.The Hon'ble Supreme Court, in the decision in ***Mahadev Appa Rao's*** case (supra), has categorically held that cancellation of selection process should be just and reasonable. The Hon'ble Supreme Court has further held as follows:-

“26. If a test is cancelled just because some complaints against the same have been made howsoever frivolous, it may lead to a situation where no selection process can be finalised as those who fail to qualify can always make a grievance against the test or its fairness. What is important is that once a complaint or representation is received the competent authority applies its mind to the same and records reasons why in its



opinion it is necessary to cancel the examination in the interest of purity of the selection process or with a view to preventing injustice or prejudice to those who have appeared in the same. That is precisely what had happened in Dilbagh Singh case [(1993) 1 SCC 154 : 1993 SCC (L&S) 144 : (1993) 23 ATC 431] . The examination was cancelled upon an inquiry into the allegations of unjust, arbitrary and dubious selection list prepared by the Selection Board in which the allegations were found to be correct.”

20.In the case on hand, it appears that on receipt of complaints, the Director, vide proceedings dated 25.11.2021, instructed the District Officers to check the practical experience in Cooking for the selected candidates through the Institute of Hotel Management and Catering Technology. But, even before this letter could reach the respective District Officers, within two days, on 27.11.2021, the subsequent order of cancelling the selection process was passed by the Director, who is also the Chairman of the State Level Selection Committee and who selected these petitioners after conducting the interview in the year 2020.

21.In fact, in the counter affidavit filed by the Director, it has been categorically stated that process of verifying the practical experience of the selected candidates through the Institute of Hotel Management and Catering Technology is yet to be completed in the 9 districts. For better appreciation, the



relevant portion is extracted as under:-

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“13.I respectfully submit that after enquiry, we came to understand that most of the Cooks appointed lacked practical experience in Cooking. Hence, the District Backward Classes and Minorities Welfare Officers of Chennai, Vellore, Perambalur, Ariyalur, Villupuram, Thiruvavur, Nilgiris, Nagapattinam and Tenkasi have ordered to check the practical experience in Cooking for the selected candidates through Institute of Hotel Management and Catering Technology vide Lr.No.B4/2874/2020 dated 25.11.2021. The above process is yet to be completed in 9 District. (emphasis supplied)”

This counter affidavit was filed in the month of January, 2022. While so, it is not known as to how on 27.11.2021 itself, they arrived at the conclusion that the selected candidates lacked experience in cooking.

22.The other reason stated by the respondents, that in order to avoid the contempt proceedings they cancelled the selection process, does not hold much water, for more than one reason. The respondents, being the Government body, ought to have contested that case on its own merits. Admittedly, the selection was made on district basis and the petitioners in the contempt petition, even according to the respondents, are coming within 8 districts, for which, the selection process for the entire 29 districts has been cancelled. That apart, cancellation of an entire selection process is not a proper way, when the Government is spending huge sum of money to conduct and conclude a



recruitment process, unless or otherwise it is established that the selection process suffers from serious arbitrariness or *mala fide*.

23.It is a settled position that no candidate acquires an indefeasible right to a post merely because he has appeared in the examination or even found a place in the select list. At the same time, it is not the prerogative of the State to refuse an appointment in an arbitrary fashion or to disregard the merit of the candidates as reflected by the merit list prepared at the end of the selection process. Needless to say that this cancellation would cast a stigma on the selected candidates in their career forever. Since the impugned order of cancellation of the selection process was made without assigning proper reasons, the same is not sustainable.

24.For the foregoing reasonings and discussions, the order of cancellation passed by the Chairman, State Level Selection Committee, in No.B4/6988/2018, dated 27.11.2021 is hereby set aside. The respondents are directed to publish the entire results forthwith and proceed accordingly. At the same time, this Court is not losing sight of the fact that the welfare of the students is paramount and there cannot be any compromise in the quality of food provided to the Students of the Hostels. Therefore, the respondents are at liberty to assess the individual competence / capacity of the selected Cooks, as



directed by the Chairman in the proceedings dated 25.11.2021 and take a just decision afresh, individually and independently, after providing an opportunity to the selected candidates. It is open to the respondents to explore the possibility of providing adequate training to the already selected candidates.

25. Before parting, this Court would like to remind of the fact that the selection was made by the State Level Selection Committee, which consists of a Director, Deputy Director and a District Level Officer. After one year, the Chairman of the Committee has come forward with the impugned order that the selection was not made properly, which was earlier selected by the very same authority. Not only the petitioners, but the Government is also incurring expenses for facing the litigations, apart from the expenses incurred for conducting and concluding a recruitment process. The basic thing required from a Selection Committee is to select suitable candidates for a particular post. The subsequent orders of cancellation by the Chairman of the Committee itself discloses the manner in which the selection process was made, which caused unnecessary expenses to the Government and inconvenience to the candidates. This Court feels that there is a lack of responsibility and accountability on the part of the Selection Committee, which showed a callous attitude in the selection process.



26.The Government of Tamil Nadu, as early as in the year 2007, vide G.O.Ms.No.65, Personnel and Administrative Reforms (AR-I) Department, dated 09.03.2007, constituted an Administrative Reforms Committee under the Chairmanship of Dr.Justice A.K.Rajan, Retired Judge of this Court, to ensure corruption free and transparent administration. On the recommendations of the Committee, the Government has passed G.O.Ms.No.24, Personnel and Administrative Reforms (AR-I) Department, dated 17.02.2010 issuing several directions. One such directions is fixing accountability on every Government Servant, at every stage and at every level. Despite the same, the Selection Committee has exhibited such a callous attitude. Therefore, this Court suggests the Principal Secretary to Government, Backward Classes, Most Backward Classes and Minorities Welfare Department, State of Tamil Nadu, Secretariat, Chennai, to initiate appropriate action as against the Selection Committee.

27.With the above observations and directions, these writ petitions are disposed of. There shall be no order as to costs. Consequently, all the connected miscellaneous petitions are closed.

Index : Yes / No
Internet : Yes
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01.07.2022



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Note :

1.Registry is to mark a copy of this order to
The Principal Secretary to Government,
Backward Classes, Most Backward Classes and Minorities Welfare
Department, State of Tamil Nadu,
Secretariat, Chennai.

2.In view of the present lock down owing to COVID-19 pandemic, a web
copy of the order may be utilized for official purposes, but, ensuring that the
copy of the order that is presented is the correct copy, shall be the responsibility
of the advocate/litigant concerned.

To

- 1.The Principal Secretary to Government,
Adi Dravidar and Scheduled Tribe Welfare Department,
Secretariat, Chennai.
- 2.The Director,
Adi Dravidar and Scheduled Tribe Welfare Department,
Beach Road, Chennai.
- 3.The Welfare Officer,
Adi Dravidar and Scheduled Tribe Welfare Department,
Trichy, Trichy District.



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